

The Honorable Franklin D. Burgess

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SUSAN A. UNRUH,

Plaintiff,

v.

MERCK & CO., INC.  
a New Jersey corporation,

Defendant.

NO. C07-5314 FDB

JOINT MOTION TO STAY  
PROCEEDINGS PENDING  
TRANSFER BY THE JUDICIAL  
PANEL ON MULTIDISTRICT  
LITIGATION

The parties to this action jointly move the Court to stay all proceedings in the above captioned case, pending its transfer to *In re Fosamax Products Liability Litigation*, MDL No. 1789, the multidistrict litigation proceeding that was established in the Southern District of New York to coordinate all federal FOSAMAX® ("Fosamax") product liability cases.

On August 16, 2006, the Judicial Panel on Multidistrict Litigation ("MDL Panel") issued an order transferring 18 Fosamax products liability cases to the United States District Court for the Southern District of New York (Keenan, J.) for coordinated pretrial proceedings under 28 U.S.C. § 1407. *In re Fosamax Products Liability Litigation*, MDL No. 1789. As of this date, the MDL Panel has issued 30 Conditional Transfer Orders requiring the transfer of over 80 actions to MDL 1789, where a total of 230 cases are now pending, including both the transferred cases and cases filed directly in the transferee court.

JOINT MOTION TO STAY ALL PROCEEDINGS PENDING  
TRANSFER BY THE JUDICIAL PANEL ON MULTIDISTRICT  
LITIGATION - 1  
(C07-5314 FDB)

**Williams, Kastner & Gibbs PLLC**  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

1 On July 5, 2007, Merck provided the MDL Panel with notice of this action pursuant to  
2 the "tag-along" procedure contained in the MDL Rules. (A copy of the letter is attached hereto  
3 as Exhibit A.) On July 23, 2007, the Panel issued conditional transfer order ("CTO") 29 as to  
4 this action. (A copy of CTO 29 is attached hereto as Exhibit B.) Because neither party will  
5 oppose transfer, and the case will likely be transferred, a stay will preserve the resources of the  
6 Court and the parties involved.

7 For the foregoing reasons, the parties respectfully request that the Court grant their joint  
8 motion to stay all proceedings in this action pending its transfer to MDL-1789.

9 DATED this 9th day of August, 2007.

10  
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JOINT MOTION TO STAY ALL PROCEEDINGS PENDING  
TRANSFER BY THE JUDICIAL PANEL ON MULTIDISTRICT  
LITIGATION - 2  
(C07-5314 FDB)

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I have mailed via U.S. Mail postage pre-paid the document to the following non CM/ECF participants:

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DATED this 9th day of August, 2007.

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JOINT MOTION TO STAY ALL PROCEEDINGS PENDING  
TRANSFER BY THE JUDICIAL PANEL ON MULTIDISTRICT  
LITIGATION - 3  
(C07-5314 FDB)

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